



South Carolina House of Representatives

# Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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## HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate **H.4316**. This bill expands the state's prohibition on **PRICE GOUGING** during natural disasters and other emergencies so as to make these provisions apply when emergencies declared out of state affect South Carolina. If the President of the United States declares a state of emergency or disaster for an area outside of South Carolina, this legislation authorizes the state Attorney General to issue an official notice when the emergency or disaster declared out-of-state creates an abnormal market disruption within South Carolina. When the Attorney General has given notice of a market disruption, it is unlawful within the affected area to charge unconscionable prices for lodgings and essential commodities such as food, water, ice, lumber, and petroleum products. When notice of an abnormal disruption of the market is given, these prohibitions are in effect for fifteen days. The Attorney General may retract a notice or renew it for an unlimited number of successive fifteen-day periods.

The House amended, approved, and sent to the Senate **H.4428**, the "**SOUTH CAROLINA COMPETITIVE CABLE SERVICES ACT**." The legislation establishes a uniform statewide framework under which cable television, satellite, telecommunications companies, and other providers may compete with one another in offering cable television services. The legislation provides for cable services to be offered under state-issued certificates of franchise authority. The Secretary of State is authorized to issue these certificates to applicants and collect a fee that is not to exceed one hundred ten dollars. Provisions governing state-issued certificates of franchise authority occupy the entire field of franchising or otherwise regulating cable service and pre-empt any ordinance, resolution, or similar matter adopted by a municipality or county that purports to address franchising. An existing cable service provider operating under a franchise previously granted by the governing body of a municipality or county is not subject to these state-issued certificate of franchise authority provisions until the franchise expires. If, however, another provider enters its service area, a cable service provider has the option of terminating existing franchises previously issued by municipalities and counties and instead offering cable service in those areas under a state-issued certificate of franchise authority. The holder of a state-issued certificate of franchise authority may be required, under an ordinance or resolution duly adopted by a municipality or county, to pay a state-issued certificate holder's franchise fee with a rate that must not exceed the lesser of: (1) the incumbent cable service provider's franchise fee rate imposed by the municipality or county, if any; or (2) five percent of the holder's gross revenues. The holder of a state-issued certificate of franchise authority may designate that portion of a subscriber's bill attributable to a franchise fee and may recover such amount from the subscriber as a separate item on the bill. This franchise fee is in lieu of a permit fee, encroachment fee, degradation fee, or other fee assessed on a holder of a state-issued certificate of franchise authority for its occupation of or work within the public rights-of-way. The legislation provides that no municipality or county shall levy a tax, license, fee, or other assessment on a cable service provider other than the franchise fee authorized by this legislation or a cable franchise fee imposed upon a cable service provider before January 1, 2006. The legislation shall not, however, restrict the right of a municipality or county to impose ad valorem taxes, service fees, sales taxes, or other taxes and fees lawfully imposed on other businesses within the municipality or county.

The legislation establishes requirements for providing public, educational, and governmental (PEG) access channels.

The House approved **S.353**, a bill revising provisions relating to **PILOTS AND PILOTAGE**, and enrolled the bill for ratification. The bill revises the jurisdiction of the Commissioners of Pilotage so as to establish that: the South Carolina Commissioners of Pilotage for the Upper Coastal Area shall have jurisdiction over the state's bars and harbors beginning at Little River (the boundary with North Carolina) to Cape Romain; and the South Carolina Commissioners of Pilotage for the Lower Coastal Areas shall have jurisdiction from Cape Romain to the South Carolina side of the Savannah River (the boundary with Georgia). The legislation revises the number of commissioners and the manner in which they are selected. The commissions' authority to investigate and discipline pilots is coordinated with the Administrative Procedures Act and possible disciplinary actions are specified including a letter of caution, a public reprimand, fines, and suspension or revocation of pilots licenses. The legislation eliminates the statutory list of specific skills required in a pilot's examination and provides that the number of pilots shall not be less than the number established by the South Carolina Commissioners of Pilotage for the Upper and Lower Coastal Areas for the specific routes through regulations.

The House concurred in Senate amendments to **H.4513** and enrolled the bill for ratification. This bill extends the deadline for the **STUDY COMMITTEE ON CRIMINAL DOMESTIC VIOLENCE ISSUES** to report its recommendations to the General Assembly to June 1, 2006.

The House amended, approved, and sent to the Senate **H.3881**. This bill enacts the "**SOUTH CAROLINA PRIORITY INVESTMENT ACT**." Current law provides that a local comprehensive plan of local planning commissions must include certain elements. This bill amends the housing element requirement so as to require an analysis to ascertain unnecessary housing regulatory requirements that add to the cost of developing affordable housing but are not necessary to protect the public. The bill further provides that the housing element must include an analysis of market-based incentives that may be made available to encourage development of affordable housing. The bill requires these comprehensive plans to include a transportation element that considers transportation facilities, including major road improvements, new road construction, transit projects, pedestrian and bicycle projects, and other elements of a transportation network. The bill also requires these comprehensive plans to include a priority investment element that analyzes the likely federal, state, and local funds available for public infrastructure and facilities during the next 10 years and recommends the projects for expenditure of those funds during the next 10 years for needed public infrastructure and facilities such as water, sewer, roads and schools. The recommendation of those projects for public expenditure must be done through cooperation with adjacent and relevant jurisdictions and agencies. The bill provides definitions for several terms related to these comprehensive plans, including: priority investment zone; affordable housing; market-based incentives; traditional neighborhood design; and unnecessary housing regulatory requirements.

The House appointed a conference committee to address differences with the Senate on **H.3010**, legislation to create a **STATEWIDE CHARTER SCHOOL DISTRICT**. Notably, the bodies differ with regard to how a state charter school district would be governed and how local funding for existing charter schools would be handled under the legislation.

The House amended, approved and sent to the Senate H.3922, the “**MERCURY SWITCH REMOVAL ACT OF 2005.**” Mercury is often found in hood or trunk light switches of vehicles. This bill provides that no person shall knowingly place an end of life vehicle into the production stream for a steel recycling facility in South Carolina containing a mercury switch. Violations are subject to a fine not to exceed \$200 dollars. 'End-of-life vehicle' means a vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap recycling facility for the purpose of recycling. Mercury switch' means a mercury-containing capsule, commonly known as a 'bullet', that is part of a convenience light switch assembly. H.3922 requires automobile manufacturers to develop and bear the costs of operating in cooperation with the Department of Health and Environmental Control and within 180 days of the effective date of this section, an 'End of Life Vehicle Solutions' (ELVS) Program. This program must advance environmental efforts in the areas of vehicle recyclability, education and outreach, and the proper collection and disposal of mercury switches from end-of-life vehicles. H.3922 provides that no person may recover any costs of response actions resulting from a release of hazardous substances from mercury switches from the owner or operator of an entity removing and properly disposing of mercury switches, unless the owner or operator is grossly negligent in the removal, collection, or storage of the hazardous substance. The bill does not affect or modify in any way the obligations or liability of a person under any other provision of state or federal law, including common law, for injury or damage resulting from the release of hazardous substances.

The House amended, approved, and sent to the Senate H.3879, a bill that makes it unlawful to engage in **COMPUTER ASSISTED REMOTE HUNTING**. Computer-assisted remote hunting means the use of a computer or any other device, equipment, or software, to remotely control the aiming and discharge of a firearm to hunt an animal, including a bird. The bill outlines certain exceptions, including an exception for a disabled hunter using medical equipment or devices to assist with his disability while engaged in the act of hunting. Violations are misdemeanors. A first offense is punishable by a fine not less than \$5,000 dollars, or by a term of imprisonment not exceeding one year, or both. Subsequent offenses must be fined not less than \$10,000 dollars, or imprisoned for not more than five years, or both.

The House amended, approved, and sent to the Senate H.4347, a bill relating to **BREASTFEEDING**. The bill provides that a woman may breastfeed her child in any location where the mother is authorized to be and that such breastfeeding is not indecent exposure.

The House approved and sent to the Senate H.3831, a bill relating to **ALTERNATIVE POLLING PLACES IN CASE OF AN EMERGENCY**. In an emergency situation, this bill allows an elector to vote in a location or at a polling place not within the precinct where the elector is registered to vote. However, the authority charged by law with conducting the election should designate an alternative polling place outside of the precinct only if no other location within the precinct is available for use as a polling place. The alternative polling place must be selected with consideration of the distance the electors would have to travel to vote. Every attempt must be made to notify electors of the alternative polling place before the election and on the day of the election through the media and by posted notice at the designated polling place. If an alternative polling place outside of the precinct is selected, the authority charged by law with conducting the election shall certify in writing to the State Election Commission that no other location

within the precinct is available for use as a polling place and that the selection of a polling place was made with consideration of the distance electors would have to travel to vote.

The House amended, approved, and sent to the Senate **H.4318**, a bill relating to **ORDERS OF PROTECTION FROM DOMESTIC ABUSE**. This bill authorizes the court to award the cost of medical treatment received by the petitioner as a result of the abuse that gave rise to the order of protection. If the court issues an order of protection, the bill provides that the court may order the respondent to pay the required filing fee. The bill further provides that failure to comply with this requirement to pay the filing fee is punishable as contempt of court.

The House amended, approved, and sent to the Senate **H.4313**. The bill declares the first Friday of May each year to be **'VIETNAM VETERANS SURVIVORS' AND REMEMBRANCE DAY** in South Carolina.

The House approved and sent to the Senate **H.4491**, a bill relating to the **TARGETED JOBS TAX CREDIT**. The bill revises the definition of "qualifying service-related facility" with respect to compensation requirements.

The House amended, approved, and sent to the Senate **H.4296**. This bill eliminates the authority of the Department of Natural Resources to grant permits to harvest and market **DIAMOND-BACKED TERRAPIN**. The bill further provides that it is unlawful to take or possess diamond-backed terrapin for a commercial purpose and that a person may possess no more than two diamond-backed terrapin for a noncommercial purpose. The bill increases the fine for a violation from \$25 dollars to \$100 dollars as well as provides that each terrapin taken constitutes a separate offense.

The House amended, approved, and sent to the Senate **H.4165**, relating to **CRITERIA FOR HIRING NATURAL RESOURCES ENFORCEMENT OFFICERS**. Current law provides if a natural resources enforcement officer does not reside in the county for which he is employed, he shall move to the county at his expense within three months of employment. This bill provides that a natural resources enforcement officer must reside within the county in which he is assigned, provided that the director, in his discretion, may allow an officer to reside outside the county under special hardship circumstances.

The House approved and sent to the Senate **H.3833**. The Department of Health and Environmental Control (DHEC) is the designated state agency responsible for control and regulation of radiation sources other than nuclear reactors. In 1990, DHEC's responsibility was expanded to regulate nonionizing radiation used in tanning bed facilities. This bill eliminates DHEC's responsibility to regulate **TANNING BEDS** and the agency's authority to charge fees for certification of tanning bed facilities.

The House rejected **H.4239**, relating to **DUAL OFFICE HOLDING**. This joint resolution proposes to submit to voters at the next general election whether or not to amend the State Constitution so that the prohibition against holding two offices does not apply to commissioned law enforcement officers employed by a county and municipal police officers employed in a county in which they do not reside who hold another office. The legislation failed to receive the two-thirds affirmative vote required for the approval of a joint resolution proposing an amendment to the South Carolina Constitution.

The House recommitted **S.138** to the Committee on Agriculture, Natural Resources, and Environmental Affairs. This bill provides for the **REGISTRATION AND LICENSING OF ALL-TERRAIN VEHICLES**.

## HOUSE COMMITTEE ACTION

### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full House Agriculture, Natural Resources and Environmental Affairs Committee met on Tuesday, February 14, 2006.

**H.3879** received a favorable with amendment report from the full committee. This bill makes it unlawful to engage in **COMPUTER ASSISTED REMOTE HUNTING**. Computer-assisted remote hunting means the use of a computer or any other device, equipment, or software, to remotely control the aiming and discharge of a firearm to hunt an animal, including a bird. The bill outlines certain exceptions, including an exception for a disabled hunter using medical equipment or devices to assist with his disability while engaged in the act of hunting. Violations are misdemeanors. A first offense is punishable by a fine not less than \$5,000 dollars, or by a term of imprisonment not exceeding one year, or both. Subsequent offenses must be fined not less than \$10,000 dollars, or imprisoned for not more than five years, or both.

The committee gave a favorable with amendment report to **H.3922**, the “**MERCURY SWITCH REMOVAL ACT OF 2005**.” Mercury is often found in hood or trunk light switches of vehicles. This bill provides that no person shall knowingly place an end of life vehicle into the production stream for a steel recycling facility in South Carolina containing a mercury switch. Violations are subject to a fine not to exceed \$200 dollars. 'End-of-life vehicle' means a vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap recycling facility for the purpose of recycling. Mercury switch' means a mercury-containing capsule, commonly known as a 'bullet', that is part of a convenience light switch assembly.

**H.3922** requires automobile manufacturers to develop and bear the costs of operating in cooperation with the Department of Health and Environmental Control an 'End of Life Vehicle Solutions' (ELVS) Program. This program must advance environmental efforts in the areas of vehicle recyclability, education and outreach, and the proper collection and disposal of mercury switches from end-of-life vehicles.

**H.3922** provides that no person may recover any costs of response actions resulting from a release of hazardous substances from mercury switches from the owner or operator of an entity removing and properly disposing of mercury switches, unless the owner or operator is grossly negligent in the removal, collection, or storage of the hazardous substance. The bill does not affect or modify in any way the obligations or liability of a person under any other provision of state or federal law, including common law, for injury or damage resulting from the release of hazardous substances.

**H.4165**, relating to **CRITERIA FOR HIRING NATURAL RESOURCES ENFORCEMENT OFFICERS**, received a favorable with amendment report. Current law provides if a natural resources enforcement officer does not reside in the county for which he is employed, he shall move to the county at his expense within three months of employment. This bill provides that a natural resources enforcement officer must reside within the county in which he is assigned, provided that the director, in his discretion, may allow an officer to reside outside the county under special hardship circumstances.

**H.4296** received a favorable with amendment report. This bill deletes the authority of the Department of Natural Resources to grant permits to harvest and market **DIAMOND-BACKED TERRAPIN**. The bill further provides that it is unlawful to take or possess diamond-backed terrapin for a commercial purpose and that a person may possess no more than two diamond-backed terrapin for a noncommercial purpose. The bill increases the fine for a violation from \$25 dollars to \$100 dollars as well as provides that each terrapin taken constitutes a separate offense.

The committee adjourned debate on **H.4523**, which pertains to **SOLID WASTE LANDFILLS**.

The full committee gave a favorable with amendment report to **S.1061**. This bill authorizes the Department of Natural Resources, acting through and in accordance with the terms of the **HERITAGE TRUST PROGRAM**, to acquire, restore, improve, and manage additional properties suitable for inclusion in the Heritage Trust Program and to incur indebtedness for these purposes which is payable from the revenues derived from that portion of the state deed recording fee dedicated to the Heritage Land Trust Fund. The bill authorizes the governing board of the Department of Natural Resources which serves as the trustee of the South Carolina Heritage Trust to issue bonds. The bill includes guidelines for the issuance of such bonds.

## EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee reported favorable with amendment on **H.3573**, the **"SAFE SCHOOLS ACT."** As reported by the committee, this bill provides that a person may not engage in harassment, intimidation, or bullying or reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying. The bill defines "harassment, intimidation, or bullying" to include acts which are written (including electronic communication), verbal, physical, or sexual and which are reasonably perceived to be motivated by any actual or perceived characteristic that a reasonable person should know has the effect of harming a student or damaging a student's property, or placing a student in reasonable fear of person harm or property damage; or has the effect of insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school. The bill provides that school employees, students, or volunteers who witness or have reliable information that a student has been subject to such acts, shall report the incident to the appropriate school official.

The bill requires local school districts to adopt and to include in certain of its publications and in its employee and volunteer training programs, a policy prohibiting harassment,

intimidation, or bullying at school. The content of the policy, although determined locally, must include certain components delineated in the bill. To assist the local districts, the bill requires the State Department of Education to develop model policies applicable to grades kindergarten through twelve.

The bill also requires schools to include on the report cards information related to bullying prevention programs, including a report on the number of bullying incidents.

The bill provides that a school employee or volunteer who promptly reports such incidents in compliance with the district's policy is immune from a cause of action for damages arising from failure to remedy the reported incident.

The committee adjourned debate on **S.613**, regarding the **DISPOSITION OF FUNDS FROM THE SALE OF SPECIAL LICENSE PLATES**.

The committee reported favorable with amendment on **H.4350**, a bill which **ALLOWS CERTAIN PERSONS WHO WEAR BIOPTIC LENSES TO OBTAIN A DRIVER'S LICENSE**. As reported by the committee, this bill allows a person who uses bioptic telescopic lenses for vision assistance to be issued a driver's license if the person:

- Submits the Department of Motor Vehicles (DMV) vision report form, completed by an optometrist or ophthalmologist, as described in the bill;
- Submits proof of training in operating a motor vehicle while wearing these lenses, as evidenced by having successfully completed a driver-training course or program that meets requirements described in the bill; and
- meets all other qualifications for obtaining a driver's license, including passing the road test wearing the lenses;
  - A person wearing these lenses who applies for a license and who fails the road test two times, before another test can be administered, must present certification of another driver-training course or program that meets requirements described in the bill dated at least thirty days from the date the second road test was administered;

An applicant who is issued a driver's license under the provisions of this bill must have the low vision report updated annually, as provided in the bill. The DMV is required to review the report and must revoke the license if the report indicates that the applicant no longer meets the medical certification requirements provided in the bill. In order to be issued a new license, the applicant must retake the DMV road test.

The bill delineates minimum requirements which must be included in the required driver-training course or program, and requires that the course or program must be certified to train individuals to use bioptic telescopic lenses while operating a motor vehicle. The applicant is required to apply for a driver's license and take the road test within six months of having completed the training program.

The bill includes restrictions for persons who are issued driver's licenses under these provisions, including the following: the driver may drive only during daylight hours, as described in the bill; the driver may travel on noninterstate roads and highways only; the driver's vehicle must have both left and right side mirrors.



## JUDICIARY

The full Judiciary Committee met on Tuesday, February 14, 2006. The legislation on the committee agenda pertained to the issue of eminent domain. Eminent domain is the power of a governmental entity to take private real estate for public use, with or without the permission of the owner.

**H.4502**, the **EMINENT DOMAIN PROPOSED CONSTITUTIONAL AMENDMENT**, received a favorable with amendment report from the full committee. Listed below is a section-by-section summary of the proposed constitutional amendment.

**Section 1:** The resolution would amend the Constitution to prohibit condemning property and thereafter transferring it to a private party unless the owner of the property consents. However, condemned property could be transferred to a private party in the following situations:

- Condemning property for safety and health reasons, including dilapidation, light and sanitary facilities, deleterious land use, or any combination of factors; i.e., it would permit condemning slum and blight property as permitted by the Code.
- Granting non-possessory interests for financing purposes; i.e., financing interests or deeds in trust.
- Condemning property for utility or transportation systems.
- Conveying less than fee simple interests--i.e., leasehold interests--to a privately-owned business for purposes of providing retail services in a public building; i.e., canteens in the Blatt Building.

Section 1 authorizes the Just Compensation for Land Use Restrictions Act that is included in the Eminent Domain Reform Bill.

Section 1 deletes certain provisions regarding blight from the Constitution, which inadvertently were added to the constitutional provisions regarding treason.

Section 1 also deletes other constitutional provisions regarding blight from the Constitution.

**Section 2:** States the question as it will be posed on the ballot.

**H.4503**, also pertaining to **EMINENT DOMAIN**, received a favorable with amendment report from the full committee. Listed below is a section-by-section summary of the legislation:

**Section 1:** Adds section 4-9-32 to require counties condemning properties for purposes of redeveloping slum and blighted areas to undertake a cost-benefit analysis of the condemnation and determine whether the value of taking the property exceeds the just compensation due to the owner. Counties must identify alternatives to redeveloping the areas other than taking the property. County officials must meet with the property owner to discuss the taking and the cost-benefit analysis. The county must issue a written report regarding the analysis used to determine whether to take the property.

**Section 2:** Establishes a ten-year period in which a condemnor must use the property for a public purpose or the former owner may repurchase the property for its appraised value or the original condemnation award, whichever is smaller. It also allows the former owner a right of first refusal if the condemnor wishes to transfer the property to another person or entity. The ten-year period is tolled during the time required for litigation, permitting, or other regulatory or legal proceedings. The right of first refusal of the landowner for less than current appraised value does not apply if doing so would violate federal law or result in a loss of federal funding or if the sale is between two entities with the power of eminent domain.

**Section 3:** Amends section 28-3-25 to require state bodies not listed in Section 8 to apply to the Budget and Control board before exercising the power of eminent domain. Requires a county to obtain approval from the county council before exercising the power of eminent domain. Requires a municipality to obtain approval from the city council before exercising the power of eminent domain.

**Section 4:** Establishes the Just Compensation for Land Use Restrictions Act, which requires that property owners be compensated for the reduction in fair market value of any real property caused by the adoption of a new land use regulation or the enforcement of an existing land use regulation, except as the regulations apply to public nuisances; public health and safety; complying with federal law; addressing pornography and nude dancing; regulating hunting, fishing, and trapping; maintaining controlled access highways; and the initial adoption of zoning laws by an unincorporated area. Permits recovery of attorney fees, expenses, costs and other disbursements, if a court awards an owner compensation.

**Section 5:** Amends Section 4-9-30 regarding the powers of counties to reference the requirements found in Section 4-9-32 added by Section 1 of this Act.

**Section 6:** Requires municipalities condemning properties for purposes of redeveloping slum and blighted areas to undertake a cost-benefit analysis of the condemnation and determine whether the value of taking the property exceeds the just compensation due to the owner. Municipalities must identify alternatives to redeveloping the areas other than taking the property. Municipality officials must meet with the property owner to discuss the taking and the cost-benefit analysis. The municipality must issue a written report regarding the analysis used to determine whether to take the property.

**Section 7:** Amends the Eminent Domain Procedure Act for the following definitions:

- a blighted area is defined as any area where there is a predominance of buildings or improvements, but the area is conducive to health or crime problems because of dilapidation, age, or other problems. It specifies that an area may not be considered blighted unless the county planning commission determines that two-thirds of the number of buildings in the area are of this character.
- just compensation is defined as the value of the property taken plus damages to property not taken so that the owner is fully compensated for direct and indirect costs arising from the taking, and clarifies that the computation of just compensation includes the value of any benefits realized by the landowner.

- public use is defined as a fixed, definite, and enforceable right of use by the public that is not incidental, indirect, or pretextual.

**Section 8:** Amends Section 28-3-20 of the Eminent Domain Procedure Act to limit the power of eminent domain to the South Carolina Department of Transportation; the South Carolina Public Service Authority, and the Department of Commerce, Division of State Development.

**Section 9:** *(Tax increment financing permits counties to undertake a capital improvement project in a designated geographic area by issuing bonds secured by increased taxes in the designated area resulting from new investment.)* This bill amends the Tax Increment Financing Act for Counties in Title 31 by redefining a blighted area as any area where there is a predominance of buildings or improvements, but the area is conducive to health or crime problems because of dilapidation, age, or other problems. It specifies that an area may not be considered blighted unless the county planning commission determines that two-thirds of the number of buildings in the area are of this character. It also defines agricultural real property using the same definition found in the tax code; i.e., real property used for agricultural, grazing, horticulture, forestry, dairying, and mariculture purposes, and includes tracts of real estate used at least 50% for these purposes.

**Section 10:** Amends the Tax Increment Financing Act for Counties in Title 6 by redefining a blighted area as any area where there is a predominance of buildings or improvements, but the area is conducive to health or crime problems because of dilapidation, age, or other problems. It requires that an area may not be considered blighted unless the planning commission determines that two-thirds of the number of buildings in the area are of this character. It also defines agricultural real property using the same definition found in the tax code; i.e., real property used for agricultural, grazing, horticulture, forestry, dairying, and mariculture purposes, and includes tracts of real estate used at least 50% for these purposes.

**Section 11:** Amends the Tax Increment Financing Act for Redevelopment Projects in Title 31 by redefining a blighted area as any area where there is a predominance of buildings or improvements, but the area is conducive to health or crime problems because of dilapidation, age, or other problems. It requires that an area may not be considered blighted unless the planning commission determines that two-thirds of the number of buildings in the area are of this character. It also defines agricultural real property using the same definition found in the tax code; i.e., real property used for agricultural, grazing, horticulture, forestry, dairying, and mariculture purposes, and includes tracts of real estate used at least 50% for these purposes.

**Section 12:** The bill provides that a public body has the burden of proof in condemnation proceeding and that the standard is clear and convincing evidence. The bill requires that statutes be strictly construed against the condemnor.

**Remaining Sections:** The bill repeals numerous inconsistent code sections as well as has a provision pertaining to various effective dates.

## LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on February 14 and reported out two bills.

The committee gave a report of favorable with amendment on **H.4316**. This bill expands the state's prohibition on **PRICE GOUGING** during natural disasters and other emergencies so as to make these provisions apply when emergencies declared out of state affect South Carolina. If the President of the United States declares a state of emergency or disaster for an area outside of South Carolina, this legislation authorizes the state Attorney General to issue an official notice when the emergency or disaster declared out-of-state creates an abnormal market disruption within South Carolina. When the Attorney General has given notice of a market disruption, it is unlawful within the affected area to charge unconscionable prices for lodgings and essential commodities such as food, water, ice, lumber, and petroleum products. When notice of an abnormal disruption of the market is given, these prohibitions are in effect for fifteen days. The Attorney General may retract a notice or renew it for an unlimited number of successive fifteen-day periods.

The committee gave a favorable report on **S.353**, a bill revising provisions relating to **PILOTS AND PILOTAGE**. The bill revises the jurisdiction of the Commissioners of Pilotage so as to establish that: the South Carolina Commissioners of Pilotage for the Upper Coastal Area shall have jurisdiction over the state's bars and harbors beginning at Little River (the boundary with North Carolina) to Cape Romain; and the South Carolina Commissioners of Pilotage for the Lower Coastal Areas shall have jurisdiction from Cape Romain to the South Carolina side of the Savannah River (the boundary with Georgia). The legislation revises the number of commissioners and the manner in which they are selected. The commissions' authority to investigate and discipline pilots is coordinated with the Administrative Procedures Act and possible disciplinary actions are specified including a letter of caution, a public reprimand, fines, and suspension or revocation of pilots licenses. The legislation eliminates the statutory list of specific skills required in a pilot's examination and provides that the number of pilots shall not be less than the number established by the South Carolina Commissioners of Pilotage for the Upper and Lower Coastal Areas for the specific routes through regulations.

## MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee met on Tuesday, February 14, 2006.

**H.3254**, the "**REGISTERED SURGICAL TECHNOLOGIST AND LICENSED SURGICAL ASSISTANT PRACTICE ACT**," was tabled by the full committee.

The full committee gave a favorable report to **H.4092**. This bill revises the makeup of **S.C. BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS**. The board is composed of ten members. Three members are nursing home administrators. Three members are community residential care facility administrators. Two members are consumer members. One member is a member of the Health and Human Services Coordinating Council. Currently, the Department of Health and Environmental Control Commissioner or his designee serves as a non-voting member of the board. This bill grants the Commissioner or his designee voting rights on the board.

**H.3883** received a favorable report. The Department of Health and Environmental Control (DHEC) is the designated state agency responsible for control and regulation of radiation sources other than nuclear reactors. In 1990, DHEC's responsibility was expanded to regulate nonionizing radiation used in tanning bed facilities. This bill eliminates DHEC's responsibility to regulate **TANNING BEDS** and the agency's authority to charge fees for certification of tanning bed facilities.

The full committee gave a favorable with amendment report to **H.4348**. This bill updates the portions of the Code of Laws that deal with **DONATION AND PROCUREMENT OF ORGANS AND TISSUES**. Significant revisions include the following:

- Revises the priority list of persons who may give consent for organ or tissue donation after death. This revision is consistent with the priority order of persons who may make health care decisions under the Adult Health Care Consent Act.
- Deletes references to the Donor Referral Network. This network is defined as including the S.C. Organ Procurement Organization (SCOPA), the American Red Cross Southeastern Tissue Services, and the S.C. Lions Eye Bank. The current statute designates SCOPA to be the exclusive organ procurement agency, the Red Cross to be the exclusive tissue procurement agency, and the Lions Eye Bank to be the exclusive eye procurement agency in South Carolina. Almost two years ago SCOPA and the Lions Eye Bank merged to form LifePoint, an organ and eye procurement agency. Last year the Red Cross stopped procuring tissues. At this time LifePoint procures almost all organs and tissues (including eyes) in this state. The proposed changes in this code section and in subsequent sections reflect these organizational changes.

The federal government designates one organ procurement agency for each geographical territory in the country. LifePoint is the federally designated organ procurement agency in S.C. This bill defines "Organ and Tissue Procurement Organization" to be the organ procurement organization designated to perform organ recovery services in S.C. by the federal government which also has the capability to procure tissues. This change will designate LifePoint to be the exclusive agency to receive potential organ and tissue referrals and donations in this state.

- Revises the board of directors membership categories for the Gift of Life Trust Fund to reflect the organizational changes discussed above. The Gift of Life Trust Fund is a non-profit organization dedicated to promoting and encouraging organ and tissue donation. The bill deletes the Red Cross representative from the Gift of Life Board. It deletes the Lions Eye Bank representative and adds a representative of a civic organization that promotes organ or tissue donation or both. It increases from three to four the number of at-large members who have demonstrated an interest in organ, tissue and eye donation and education. The bill also eliminates the term limit for the forensic pathologist member of the board.

**H.4015**, which revises the **PHYSICIAN ASSISTANT PRACTICE ACT**, received a favorable with amendment report. A physician assistant is a health care professional licensed by the S.C. Board of Medical Examiners to assist in the practice of medicine with a designated physician supervisor under defined scope of practice guidelines. The

Board's Physician Assistant Advisory Committee evaluates the qualifications and supervises the examination of applicants for licensure and makes recommendations to the Board regarding licensure applications.

This bill updates and clarifies several aspects of the practice of a physician assistant from licensure requirements to supervision requirements. The bill makes the following substantive changes:

- Streamlines the process for a physician assistant (PA) to receive an authorization to practice. Allows a temporary authorization to practice to be issued after administrative review of the application. Allows a Board of Medical Examiners designee to conduct the required interview to expand the pool of people available to conduct interviews. At the next Board meeting after the temporary license is granted the Physician Assistant Advisory Committee may recommend approval for a permanent license or a limited license. Only the full Board can issue a PA a permanent license to practice.

If a temporary authorization is not granted, the PA Advisory Committee must review the application and may recommend the Board of Medical Examiners change that PA's scope of practice guidelines, or grant a limited license, or grant permanent licensure.

- Allows a PA who does not yet have a supervising physician to receive a temporary authorization pending the requirement to be interviewed along with a supervising physician by a Board member. This change will allow a PA to demonstrate to a potential physician employer that the applicant is eligible to practice but does not authorize the PA to practice without a supervising physician. Within 90 days, the PA applicant must be interviewed by a Board member along with a supervising physician and written scope of practice guidelines.
- Revises the direct supervision requirements to make it clear that that a PA who works at the same site as the supervising physician may work up to seven consecutive days each month when the supervising physician is not physically present.
- Allows an experienced PA with at least two years continuous practice in SC in the same specialty to be able to practice without a supervising physician being on-site after the PA has practiced with that supervising physician for three months. The three-month requirement may be waived for experienced PAs and physician supervisors upon recommendation of the PA Advisory Committee and Board approval.
- Requires the supervising physician to be physically present at an off-site location at least 20% of the time each month the PA is providing services there.
- Revises the chart review requirement. Currently, a supervising physician must review a patient's chart within 72 hours if the physician was not on-site at the time when the PA saw the patient. The amendment will give the physician up to

five working days to review the chart unless the medical situation requires quicker review.

- Allows a PA who has a permanent license to write prescriptions for controlled substances in Schedules III - V if this authorization is included in that PA's scope of practice guidelines. Currently a PA may write prescriptions except for drugs in Schedules II - IV.

Requires a PA who seeks the authority to write prescriptions for controlled substances to have 60 hours education in pharmacotherapeutics, at least 15 hours education in controlled substances, and four continuing education hours every two years in prescribing controlled substances. In addition the PA and the supervising physician must read and sign a document describing management of controlled substance prescriptive authority for PAs. Every two years the PA and the supervising physician must provide evidence that they have reviewed this document.

- Prohibits a PA from performing a medical act, task or function that is outside the usual practice of the PA's supervising physician.

**H.4313** received a favorable with amendment report. The bill declares the first Friday of May each year to be '**VIETNAM VETERANS SURVIVORS' AND REMEMBRANCE DAY**' in South Carolina.

## WAYS AND MEANS

The full committee did not meet this week.

# BILLS INTRODUCED IN THE HOUSE THIS WEEK

## AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

### **H.4660 COASTAL TIDELANDS AND WETLANDS** Rep. Witherspoon

Relating to definitions in regard to coastal tidelands and wetlands, this bill defines the term "pool" as an in-ground structure designed and used for swimming and wading.

## EDUCATION AND PUBLIC WORKS

### **H.4645 MOTORCYCLES AND MOPEDS** Rep. J.H. Neal

This bill provides that if a driver of a motorcycle or moped approaches an intersection that is controlled by a traffic-controlled device, the driver may, under certain conditions delineated in the bill, proceed through the intersection on a steady red light.

**H.4647 OPERATION OF GOLF CARTS Rep. Rutherford**

This bill provides that if a golf cart is equipped with headlights and taillights, it may be operated at night on a secondary highway or street within two miles of the owner's residence or place of business. Currently, these carts may be operated only during daylight hours.

## JUDICIARY

**S.150 "FAMILY COURT FINANCIAL PRIVACY ACT" Sen. Campsen**

The bill provides that the clerk of court shall seal the financial declarations that are made a part of the court record in any matter before the family court. The parties, their attorneys of record, the family court judge and the judge's staff, the clerk of court and the clerk's staff, and the Child Support Enforcement Division of the Department of Social Services shall be granted access to a financial declaration upon request to the clerk of court. The bill further provides that no other person shall unseal or be granted access to a financial declaration except on order of the court. The bill exempts financial declarations in matters before the family court from a Freedom of Information Act request.

**S.1012 JUDICIAL ELECTIONS Sen. McConnell**

This bill prohibits a person or judicial candidate from directly or indirectly seeking the pledge of a member of the General Assembly regarding screening for any judicial office until: (1) the qualifications of all the candidates have been determined by the Judicial Merit Selection Commission, and (2) the commission has formally released its report.

**S.1031 PROPOSED AMENDMENT TO THE STATE CONSTITUTION  
PERTAINING TO THE TAKING OF PRIVATE PROPERTY  
Sen. Campsen**

This joint resolution proposes to submit to the voters at the next general election whether or not to amend the State Constitution as it pertains to the taking of private property by eminent domain. Eminent domain is the power of a governmental entity to take private real estate for public use, with or without the permission of the owner. The joint resolution proposes to amend the State Constitution to provide that private property shall not be condemned by eminent domain for any purpose or benefit, including, but not limited to, the purpose or benefit of economic development, unless the condemnation is for public use.

**H.4653 CONSTITUTIONAL BALLOT COMMISSION Rep. Clyburn**

This concurrent resolution requests the Constitutional Ballot Commission to review the language of proposed amendments to State Constitution providing for additional property tax exemptions and defining the manner in which fair market value of real property is determined which may be submitted to the qualified electors of this state at the 2006 general election. The concurrent resolution further requests that the Constitutional Ballot Commission ensure that the explanations of the questions the commission prepares to be included on the ballot are written at an eighth grade reading



level to allow all segments of the population the ability to understand what they are voting on.

**H.4656 TEMPORARY PERMITS UPON A FAVORABLE REFERENDUM VOTE ALLOWING THE POSSESSION, SALE, AND ON-PREMISES CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK OR ALLOWING THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION** Rep. Harrison

This bill relates to temporary permits upon a favorable referendum vote allowing the possession, sale, and on-premises consumption of alcoholic liquors by the drink or allowing the sale of beer and wine for off-premises consumption. The bill provides that in addition to the petition method of calling the referendum, a county or municipal governing body by ordinance may also call the required referendum.

**H.4658 PARTY PRIMARY ELECTIONS CONDUCTED BY THE STATE ELECTION COMMISSION** Rep. Talley

This bill relates to party primary elections conducted by the State Election Commission; the bill provides that a second primary must be held four weeks instead of two weeks after the first primary.

**H.4674 RELIEVING A SURETY ON A BOND FOR "GOOD CAUSE"** Rep. Allen

This bill relates to relieving a surety on a bond for "good cause." The bill authorizes the court to order that the surety refund any portion of the fee paid to the surety, if the court believes the refund is warranted.

**H.4675 POSSESSION, MANUFACTURE, AND TRAFFICKING IN METHAMPHETAMINE AND COCAINE BASE** Rep. Allen

Current law provides that except for a first offense, sentences for violation of the provisions relating to possession, manufacture and trafficking in methamphetamine and cocaine base may not be suspended and probation may not be granted. This bill deletes the prohibition on suspending sentences and granting probation for second and subsequent offenses.

**H.4678 SAFE HAVEN FOR ABANDONED INFANTS** Rep. G.M. Smith

Current law provides that a person who abandons a newborn cannot be prosecuted for abandonment if he takes the unharmed baby to an employee at a hospital or hospital outpatient facility. The law applies to infants up to 30 days old. This bill provides that an infant may also be left at a law enforcement agency or a church or synagogue. The bill further provides that the immunity from prosecution attaches when an infant is left at a safe haven. The bill requires that a law enforcement agency, church, or synagogue transport an infant to a hospital when the infant is left at the law enforcement agency, church, or synagogue.

**H.4680 "ASBESTOS AND SILICA VICTIMS PROTECTION ACT OF 2006"** Rep. White

Asbestos is a mineral that was widely used before the 1980's for insulation, fireproofing, and other purposes. Long-term exposure to asbestos has been associated with various types of cancer as well as the nonmalignant conditions. The diseases caused by asbestos often have long latency periods. This bill enacts the "Asbestos And Silica Victims Protection Act of 2006." The bill defines the elements of a prima facie showing required to file a civil action based on an asbestos or silica claim. The bill provides parameters for when an asbestos or silica claim may be brought in this state and to

delineate the information that must be provided in the claim. The bill further provides that the limitations period on a claim does not begin to run until the exposed person discovers that he is physically impaired by an asbestos-related or silica-related condition. The bill provides that a product seller other than a manufacturer is liable to a plaintiff in a civil action only if the plaintiff establishes certain elements related to reasonable care and proximate cause. The bill further provides for specific exceptions to the limitations on civil actions for asbestos and silica claims.

## **LABOR, COMMERCE AND INDUSTRY**

### **H.4655 RESTRICTIONS ON BEER AND WINE SALES AT CONVENIENCE STORES** Rep. Haskins

This bill provides that it is unlawful for a business establishment which sells gasoline or other motor fuels and which also possesses a permit to sell beer and wine to sell: (1) refrigerated or chilled beer or wine; (2) individual bottles or cans of beer; (3) more than one container of beer to a customer at one time. A person violating these provisions is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not more than two hundred dollars. Following conviction, the establishment's permit to sell beer and wine must be revoked.

### **S.1114 STATE BOARD OF FINANCIAL INSTITUTIONS** Sen. Thomas

This bill revises the membership of the State Board of Financial Institutions so as to provide that one member of the board must be a restricted or supervised lender recommended by the Independent Consumer Finance Association.

### **H.4679 QUALIFICATIONS FOR ALARM SYSTEM BUSINESS LICENSURE** Rep. Cato

This bill revises qualifications for licensure to engage in an alarm system business, so as to specify the national training course requirements to be licensed to engage in the burglar alarm business or the fire alarm business.

## **WAYS AND MEANS**

### **S.1136 AMENDMENTS TO THE "LEXINGTON COUNTY SCHOOL DISTRICT PROPERTY RELIEF ACT"** Sen. Knotts

This bill amends Act 378 of 2004, the "Lexington County School District Property Tax Relief Act," by providing that the revenues allotted to a school district be used to provide a nonrefundable credit against the school property tax liability on property taxable in the district. The bill also provides that the liability be determined by using the appraised value of the taxable property before the Homestead Exemption for taxpayers sixty-five and over or those totally and permanently disabled or legally blind.

### **H.4648 PAYMENT TO RETIRED JUSTICES OR JUDGES WHO RETURN TO STATE SERVICE** Rep. Sinclair

This bill removes the prohibition on paying a retired justice or judge who returns to the service of the State as an acting associate justice or as a judge. Currently, these retirees may only be paid their actual expenses while serving. This bill provides that such returning justices or judges may receive a stipend of one hundred fifty dollars per

day, plus the same mileage and per diem paid to active justices and judges, but they may not earn more than one hundred percent of the salary of an active circuit court judge.

**H.4661 COMMITTEE TO STUDY STATE EARMARKED AND  
RESTRICTED ACCOUNTS Rep. Harrell**

This bill creates and provides for a committee to study and make recommendations to the General Assembly regarding the state's earmarked and restricted accounts. The Speaker of the House, the President *Pro Tempore* of the Senate, the Chair of the House Ways and Means Committee, and the Chair of the Senate Finance Committee would each appoint three members, who may be from either the public or private sector. Members of the General Assembly would be allowed to serve. The committee is charged to study the restricted and earmarked accounts of all state agencies and issue a report and recommendations to the General Assembly by January 9, 2007. The committee terminates on January 9, 2007, or the date it forwards its report, whichever is earlier.

**H.4662 BOND AUTHORIZATIONS FOR CLEMSON UNIVERSITY Rep. White**

This bill reallocates and renames state capital improvement bond authorizations for Clemson University.

**H.4663 CORPORATE TAX CREDIT FOR CONTRIBUTION TO  
PRE-KINDERGARTEN SCHOLARSHIP GRANTING  
ORGANIZATION Rep. Duncan**

This bill authorizes and provides for a corporate taxpayer to receive a credit against certain taxes or license fees for a contribution to a "pre-kindergarten scholarship granting organization," as such organizations are defined in the bill. The bill provides that the credit may not exceed: fifty percent of the taxpayer's liability for taxes or fees; one hundred thousand dollars for each taxpayer annually; or five million dollars in the aggregate for all taxpayers claiming the credit in one taxable year. Credits would be granted in the order they are claimed, up to the maximum amounts.

The bill provides that to be eligible for these scholarships, a student must be pre-kindergarten age (three or four years old), must be enrolled in a pre-kindergarten program (or taught at home as described in the bill), and must be a member of a household with an annual income of \$50,000 or less.

The bill requires the Department of Revenue (DOR) to adopt rules or promulgate regulations establishing the information it requires for an organization to qualify as a pre-kindergarten scholarship granting organization for purposes of this bill, and the bill requires DOR to publish and disseminate a list of those organizations which qualify. The bill also requires DOR to include these organizations in an annual report to the General Assembly, and to report the total amounts of scholarships awarded and credits claimed.

**H.4673 EFFECT OF NEW ARTICLE X OF STATE CONSTITUTION ON BONDS  
OF POLITICAL SUBDIVISIONS AND SCHOOL DISTRICTS** Rep. Loftis

This bill amends current provisions regarding the effect of Article X of the State Constitution on political subdivisions and school districts. The bill requires the members of the governing body of a successor-in-interest, transferee, or associate of these entities to be bonded in an amount that when aggregated equals the then outstanding balance of the debt incurred when the successor-in-interest, transferee, or associate undertakes a duty of those entities and in so doing incurs debt serviced by general obligation borrowing of those entities. The bill prohibits funds derived directly or indirectly from the political subdivision or school district to be used to pay for the bond.

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